

§ 26.165

10 CFR Ch. I (1–12 Edition)

certified laboratory shall apply the confirmatory cutoff levels specified in this paragraph, except if the licensee or other entity requires the special analysis of dilute specimens permitted in paragraph (a)(2) of this section or the licensee or other entity has established more stringent cutoff levels.

CONFIRMATORY TEST CUTOFF LEVELS FOR DRUGS AND DRUG METABOLITES

Drug or metabolites	Cutoff level (ng/mL)
Marijuana metabolite ¹	15
Cocaine metabolite ²	150
Opiates:	
Morphine	2000
Codeine	2000
6-acetylmorphine ³	10
Phencyclidine (PCP)	25
Amphetamines:	
Amphetamine	500
Methamphetamine ⁴	500

¹ As delta-9-tetrahydrocannabinol-9-carboxylic acid.

² As benzoylecgonine.

³ Test for 6-AM when the confirmatory test shows a morphine concentration exceeding 2,000 ng/mL.

⁴ Specimen must also contain amphetamine at a concentration equal to or greater than 200 ng/mL.

(2) Each confirmatory drug test must provide a quantitative result. When the concentration of a drug or metabolite exceeds the linear range of the standard curve, the laboratory may record the result as “exceeds the linear range of the test” or as “equal to or greater than <insert the value for the upper limit of the linear range>,” or may dilute an aliquot of the specimen to obtain an accurate quantitative result when the concentration is above the upper limit of the linear range.

§ 26.165 Testing split specimens and retesting single specimens.

(a) *Testing split specimens.* (1) If a specimen has been split into Bottle A and Bottle B at the collection site, and the specimen was not initially tested at a licensee testing facility, then the HHS-certified laboratory shall perform initial and confirmatory validity and drug testing, if required, of the specimen in Bottle A.

(2) If a specimen was initially tested at a licensee testing facility and positive or questionable validity test results were obtained, then the HHS-certified laboratory shall perform initial and confirmatory testing, if required, of the specimen in Bottle A.

(3) At the licensee’s or other entity’s discretion, Bottle B must either be forwarded to the HHS-certified laboratory or maintained in secure storage at the licensee testing facility, as required by § 26.135(a) and (c), as applicable. If the specimen in Bottle A is free of any evidence of drugs or drug metabolites, and is a valid specimen, then the licensee testing facility or HHS-certified laboratory may discard the specimens in Bottles A and B.

(b) *Donor request to MRO for a retest of a single specimen or testing Bottle B of a split specimen.* (1) For a confirmed positive, adulterated, or substituted result reported on a single specimen of 30 mL or more, or a specimen in Bottle A of a split specimen which the donor submitted to the licensee or other entity, a donor may request (through the MRO) that an aliquot from the single specimen or the split (Bottle B) specimen be tested by a second HHS-certified laboratory to verify the result reported by the first laboratory. For an invalid test result, a donor may not request that an aliquot from the single specimen or the split specimen in Bottle B be tested by a second HHS-certified laboratory.

(2) The MRO shall inform the donor that he or she may, within 3 business days of notification by the MRO of the confirmed positive, adulterated, or substituted test result, request the retesting of an aliquot of the single specimen or the testing of the Bottle B split specimen. The MRO shall provide the donor with specific instructions for making this request (*i.e.*, providing telephone numbers or other contact information). The MRO shall have the ability to receive the donor’s calls at all times during the 3-day period (*e.g.*, by use of an answering machine with a “time stamp” feature when there is no one in the MRO’s office to answer the phone). The donor’s request may be oral or in writing.

(3) The donor shall provide his or her permission for retesting an aliquot of the single specimen or the testing of Bottle B. Neither the licensee, MRO, NRC, nor any other entity may order retesting of the single specimen or testing of the specimen in Bottle B without the donor’s written permission, except as permitted in § 26.185(l).

(4) If the donor has not requested a retest of an aliquot of a single specimen or a test of the split specimen (Bottle B) within 3 business days, the donor may present to the MRO information documenting that serious injury, illness, lack of actual notice of the confirmed test result, inability to contact the MRO (e.g., there was no one in the MRO's office and the answering machine was not working), or other circumstances unavoidably prevented the donor from making a timely request. If the MRO concludes from the donor's information that there was a legitimate reason for the donor's failure to contact the MRO within the 3 business days permitted, the MRO shall direct the retesting of an aliquot of the single specimen or the test of the split specimen (Bottle B) take place, as if the donor had made a timely request.

(5) As soon as reasonably practical and not more than 1 business day following the day of the donor's request, as permitted in paragraph (b)(3) or (b)(4) of this section, the MRO shall ensure that the HHS-certified laboratory forwards an aliquot of a single specimen, or that the HHS-certified laboratory (or licensee testing facility, as appropriate) forwards Bottle B of a split specimen, to a second HHS-certified laboratory that did not test the specimen in Bottle A.

(6) The HHS-certified laboratory that retests an aliquot of a single specimen or tests the specimen in Bottle B shall provide quantitative test results to the MRO and the MRO shall provide them to the donor.

(c) *Retesting a specimen for drugs.* (1) The second laboratory shall use its confirmatory drug test when retesting an aliquot of a single specimen or testing Bottle B of a split specimen for the drug(s) or drug metabolite(s) for which the first laboratory reported a positive result(s), including retesting specimens that have been subject to the special analysis permitted in § 26.163(a)(2).

(2) Because some drugs or drug metabolites may deteriorate during storage, the retest by the second laboratory is not subject to a specific drug cutoff level, but must provide data sufficient to reconfirm the presence of the drug(s) or drug metabolite(s) down to the assay's LOD.

(3) If the second laboratory fails to reconfirm the presence of the drug(s) or drug metabolite(s) for which the first laboratory reported a positive result(s), the second laboratory shall attempt to determine the reason for not reconfirming the first laboratory's findings by conducting specimen validity tests. The second laboratory shall conduct the same specimen validity tests it would conduct on a single specimen or the specimen in Bottle A of a split specimen.

(4) The second laboratory shall report all results to the licensee's or other entity's MRO.

(d) *Retesting a specimen for adulterants.* A second laboratory shall use the required confirmatory validity test and criteria in § 26.161(c) to reconfirm an adulterant result when retesting an aliquot from a single specimen or when testing Bottle B of a split specimen. The second laboratory may only conduct the confirmatory validity test needed to reconfirm the adulterant result reported by the first laboratory.

(e) *Retesting a specimen for substitution.* A second laboratory shall use its confirmatory creatinine and confirmatory specific gravity tests, when retesting an aliquot of a single specimen or testing Bottle B of a split specimen, to reconfirm that the creatinine concentration was less than 2 mg/dL and the specific gravity was less than or equal to 1.0010 or equal to or greater than 1.0200. The second laboratory may only conduct the confirmatory creatinine and specific gravity tests to reconfirm the substitution result reported by the first laboratory.

(f) *Management actions and sanctions.*

(1) If the MRO confirms a positive, adulterated, or substituted test result(s) from the first HHS-certified laboratory and the donor requests testing of Bottle B of a split specimen or retesting of an aliquot from a single specimen, the licensee or other entity shall administratively withdraw the individual's authorization on the basis of the first confirmed positive, adulterated, or substituted test result until the results of testing Bottle B or retesting an aliquot of the single specimen are available and have been reviewed by the MRO. If the MRO reports that the results of testing Bottle B or

retesting the aliquot of a single specimen reconfirm any of the original positive, adulterated, or substituted test result(s), the licensee or other entity shall impose the appropriate sanctions specified in subpart D. If the results of testing Bottle B or retesting the aliquot of a single specimen are negative, the licensee or other entity—

(i) May not impose any sanctions on the individual;

(ii) Shall eliminate from the donor's personnel file and other records any matter that could link the individual to the temporary administrative action;

(iii) May not disclose the temporary administrative action in response to a suitable inquiry conducted under the provisions of § 26.63 or to any other inquiry or investigation required in this chapter. To ensure that no records have been retained, access to the system of files and records must be provided to personnel conducting reviews, inquiries into allegations, or audits under the provisions of § 26.41, or to NRC inspectors; and

(iv) Shall provide the tested individual with a written statement that the records specified in §§ 26.713 and 26.715 have not been retained and shall inform the individual in writing that the temporary administrative action that was taken will not be disclosed and need not be disclosed by the individual in response to requests for self-disclosure of potentially disqualifying FFD information.

(2) If a donor requests that Bottle B be tested or that an aliquot of a single specimen be retested, and either Bottle B or the single specimen are not available due to circumstances outside of the donor's control (including, but not limited to, circumstances in which there is an insufficient quantity of the single specimen or the specimen in Bottle B to permit retesting, either Bottle B or the original single specimen is lost in transit to the second HHS-certified laboratory, or Bottle B has been lost at the HHS-certified laboratory or licensee testing facility), the MRO shall cancel the test and inform the licensee or other entity that another collection is required under direct observation as soon as reasonably practical. The licensee or other entity

shall eliminate from the donor's personnel and other records any matter that could link the donor to the original positive, adulterated, or substituted test result(s) and any temporary administrative action, and may not impose any sanctions on the donor for a cancelled test. If test results from the second specimen collected are positive, adulterated, or substituted and the MRO determines that the donor has violated the FFD policy, the licensee or other entity shall impose the appropriate sanctions specified in subpart D of this part, but may not consider the original confirmed positive, adulterated, or substituted test result in determining the appropriate sanctions.

§ 26.167 Quality assurance and quality control.

(a) *Quality assurance program.* Each HHS-certified laboratory shall have a quality assurance program that encompasses all aspects of the testing process, including, but not limited to, specimen accessioning, chain of custody, security and reporting of results, initial and confirmatory testing, certification of calibrators and controls, and validation of analytical procedures. The performance characteristics (e.g., accuracy, precision, LOD, limit of quantitation (LOQ), specificity) of each test must be validated and documented for each test. Validation of procedures must document that carryover does not affect the donor's specimen results. Periodic re-verification of analytical procedures is required. Quality assurance procedures must be designed, implemented, and reviewed to monitor the conduct of each step of the testing process.

(b) *Calibrators and controls required.* Each analytical run of specimens for which an initial or confirmatory validity test, or an initial or confirmatory drug test, is being performed must include the appropriate calibrators and controls.

(c) *Quality control requirements for performing initial and confirmatory validity tests.* (1) Requirements for performing creatinine tests:

(i) The creatinine concentration must be measured to one decimal place